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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2015

Monday, March 30, 2015  
2:00 p.m.

**TESTIMONY ON HOUSE CONCURRENT RESOLUTION NO. 46, PROPOSED H.D. 1  
– REQUESTING THE AUDITOR TO CONDUCT A SUNRISE ANALYSIS OF THE  
PROPOSED REGULATION OF TRANSPORTATION NETWORK COMPANIES.**

TO THE HONORABLE ANGUS L.K. McKELVEY, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department supports the merits of this proposed concurrent resolution and offers the following comments concerning the Insurance Code.

Currently, with few exceptions, the Insurance Code, which regulates motor vehicle insurance coverages under chapter 431, article 10C of the Hawaii Revised Statutes (“HRS”), mandates that “[e]very owner of a motor vehicle used or operated at any time upon any public street, road, or highway . . . is insured at all times under a motor vehicle insurance policy.”<sup>1</sup> This article also details the minimum mandatory insurance coverages each motor vehicle insurance policy must have, which consists of the following: \$10,000 of personal injury protection,<sup>2</sup> \$20,000/\$40,000 of bodily injury liability,<sup>3</sup> and \$10,000 of property damage liability.<sup>4</sup> The Insurance Code does not

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<sup>1</sup> HRS § 431:10C-104.

<sup>2</sup> HRS § 431:10C-103.5.

<sup>3</sup> HRS § 431:10C-301(b)(1).

differentiate between the amounts of minimum mandatory coverage required of vehicles when they are used for either personal or business use. Higher limits, specific coverage provisions, and other requirements are established outside the Insurance Code through contracts and other governmental agencies.

The Department also notes that although the Insurance Code does not specifically address transportation network company coverage, HRS § 431:10C-303.5, governs the determination of primary and secondary coverages between U-drive motor insurance policies and personal insurance policies.

We thank the Committee for the opportunity to present testimony on this matter.

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<sup>4</sup> HRS § 431:10C-301(b)(2).

**Testimony of  
Gary M. Slovin / Mihoko E. Ito  
on behalf of  
USAA**

DATE: March 29, 2015

TO: Representative Angus L.K. McKelvey  
Chair, Committee on Consumer Protection and Commerce

RE: **HCR 46, Proposed H.D.1 - REQUESTING THE AUDITOR TO  
CONDUCT A SUNRISE ANALYSIS OF THE PROPOSED  
REGULATION OF TRANSPORTATION NETWORK COMPANIES  
Hearing Date: Monday, March 30, 2015 at 2:00 p.m.  
Conference Room: 325**

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Dear Chair McKelvey and Members of the Committee:

We submit this testimony on behalf of USAA, a diversified financial services company. USAA is the leading provider of competitively priced financial planning, insurance, investments, and banking products to members of the U.S. military and their families. USAA has over 82,000 members in Hawaii, the vast majority of which are military-based members.

USAA **submits comments** regarding HCR 46 proposed H.D.1, which requests the auditor to conduct a sunrise analysis of the proposed regulation of transportation network companies (“TNCs”).

USAA takes no position on a study of the regulatory framework for TNCs. However, USAA opposes the resolution as drafted, because it includes the following “whereas” provision at page 1, lines 19-25, which implies that insurance should be studied along with a study on the regulatory framework for TNCs:

WHEREAS, the current motor vehicle insurance laws do not specifically address insurance coverage issues that may arise when a motor vehicle being used to provide transportation network company services is involved in a motor vehicle accident, such as whether the driver's own motor vehicle insurance policy will provide coverage when such an accident occurs; now, therefore,

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Gary M. Slovin  
Mihoko E. Ito  
C. Mike Kido  
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There is no question that TNCs must to have adequate insurance in order to protect consumers while they are engaging in TNC activity. USAA believes that the current draft of S.B. 1280, SD2 HD1 provides for such insurance by: 1) requiring that TNCs have primary insurance coverage that specifically covers TNC activity, 2) providing clear guidelines for TNC activity and 3) requiring claims cooperation by TNCs. A study of insurance coverage would only delay providing appropriate coverage and allow TNCs to continue to operate without adequate protections to riders and the general public.

For the above reasons, a study of the insurance framework for TNCs is clearly not needed, and USAA request fully requests that this “whereas” clause at page 1, lines 19-25 be removed.

- I. Thank you very much for the opportunity to submit testimony on this measure.



# GRASSROOT

Institute of Hawaii

## LATE TESTIMONY

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March 30, 2015, 2:00 PM/ Conference Room 325

**To: House Committee on Consumer Protection & Commerce**  
**Rep. Angus McKelvey, Chair/ Rep. Justin Woodson, Vice Chair**

**From: Grassroot Institute of Hawaii, President Keli'i Akina, Ph.D.**

RE: HCR 46 -- URGING CONGRESS TO EXEMPT THE DOMESTIC SHIPMENT OF GOODS TO AND FROM HAWAII, ALASKA, AND PUERTO RICO, FROM THE JONES ACT REQUIREMENT THAT THE TRANSPORTING SHIP BE CONSTRUCTED IN THE UNITED STATES.

### ***Comments Only***

The Grassroot Institute of Hawaii would like to offer its comments on the un-amended version of HCR 46, which urges Congress to adopt a limited exemption to the build requirement of the Jones Act for Hawaii, Alaska, and Puerto Rico.

The Grassroot Institute is pleased at the growing success that HCR 46 and its earlier forms have achieved over the past three years. The increasing bipartisan support demonstrates that updating the Jones Act for the 21st Century is not a partisan issue, but one which can bring together diverse interests who are committed to a better future for Hawaii's people.

We are especially pleased that this resolution calls for an update to the Jones Act that is sensitive to the important role this federal legislation has played for Hawaii and the nation. Specifically, HCR 46 calls only for a limited exemption from the build plank which leaves intact the Jones Act's role in the following areas: providing for national security; ensuring a merchant marine of American citizens; and guaranteeing federal safety regulations for working conditions of crew members.

As to overall shipyard jobs, we anticipate that demand will not decrease for the level of productivity American shipyards now enjoy. This is because favorable financing options for ships purchased under the Jones Act will remain in place under the terms called for by this resolution. Thus, the benefits of this resolution will not in any way reduce American shipyard jobs.

As our legislative leaders, you now have an opportunity to send an important message to Washington, D.C. that will bring much economic benefit to Hawaii's people. In addition, HCR 46 is to be commended for the elegant way in which it honors the values of important constituent groups as it proposes to build upon and update the historic Jones Act.

The Grassroot Institute thanks you for your consideration of this significant measure.



HOUSE COMMITTEE  
ON  
CONSUMER PROTECTION AND COMMERCE

**LATE TESTIMONY**

March 30, 2015

HCR 46 Proposed HD1 REQUESTING THE AUDITOR TO CONDUCT A SUNRISE  
ANALYSIS OF THE PROPOSED REGULATION OF TRANSPORTATION NETWORK  
COMPANIES

Chair McKelvey and members of the House Committee on Consumer Protection and Commerce, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm).

State Farm opposes HCR 46 Proposed HD 1 as written. Specifically we oppose the following "whereas" provision at page 1, lines 19-25, which states:

"WHEREAS, the current motor vehicle insurance laws do not specifically address insurance coverage issues that may arise when a motor vehicle being used to provide transportation network company services is involved in a motor vehicle accident, such as whether the driver's own motor vehicle insurance policy will provide coverage when such an accident occurs; now, therefore, . . ."

We believe current motor vehicle laws do address the insurance issues regarding the drivers of transportation network companies (TNC). Personal auto policies do not cover commercial activities. It is clear that TNC drivers are engaged in commercial activity, and therefore not covered by the personal auto policy they purchased for their own personal and not commercial use. In short the current TNC driver is driving uninsured.

SB 1280 SD2 HD2 remedies this issue, clearly and unequivocally by requiring that TNCs or their drivers obtain insurance at specified levels commensurate with the risk which they engender from the time the commercial activity begins--when the TNC's application is turned on by the driver. Without SB 1280 SD2 HD2, TNC companies and their drivers shift the risk and the resulting cost of their activities to the rest of the private personal auto policy insureds by effectively placing injured third parties either into the HJUP plan or under the uninsured policies of other drivers. This is neither appropriate nor fair, since risks associated with TNC drivers and their activities should be born solely by the TNC and their drivers. Knowing that these drivers are acting in contravention of Hawaii law, it is altogether appropriate for the legislature to take action and correct this activity before innocent third parties are injured and left with no remedy from the TNCs and their drivers.



In addition, even if there is a proper exclusion in the private passenger auto policy, there is often a question of the interpretation of that exclusion, which can delay resolution of a claim. SB1280 SD2 HD2 creates a bright line that makes it clear the private passenger auto policy does not provide coverage, allowing for the faster resolution of claims.

For these reasons we believe that this clause should be removed.

We take no position on the regulatory scheme presented in the various bills except to note that the TNCs and their drivers perform the same services as taxis and other motor carriers and should be treated in the same manner. We also believe that during the interim before the TNC and their drivers are regulated there should be a moratorium enacted to prevent the activity until such time the public and consumers are protected.

Thank you for the opportunity to present this testimony.